

# **EXHIBIT 4**

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE SOUTHERN DISTRICT OF NEW YORK  
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5                   HACHETTE BOOK GROUP, INC.,  
6                   HARPERCOLLINS PUBLISHERS LLC,  
7                   JOHN WILEY & SONS, INC., and  
8                   PENGUIN RANDOM HOUSE LLC,

9                   Plaintiffs,

10                  vs.

11                  No. 1:20-cv-04160-JGK

12                  INTERNET ARCHIVE and DOES 1  
13                  through 5, inclusive,

14                  Defendants.

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16                  DEPOSITION OF MICHAEL "MEK" KARPELES  
17                  Remote Zoom Proceedings  
18                  Somerville, Massachusetts  
19                  Wednesday, October 27, 2021  
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21  
22  
23                  REPORTED BY:  
24                  LESLIE ROCKWOOD ROSAS, RPR, CSR 3462  
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14                 through 5, inclusive,  
15                 Defendants.

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18                 Video-recorded deposition of MICHAEL "MEK"  
19                 KARPELES, taken on behalf of Plaintiffs, Remote Zoom  
20                 Proceeding from Somerville, Massachusetts, beginning at  
21                 12:03 p.m. Eastern Daylight Time and ending at 8:47 p.m.  
22                 Eastern Daylight Time, on Wednesday, October 27, 2021,  
23                 before Leslie Rockwood Rosas, RPR, Certified Shorthand  
24                 Reporter No. 3462.

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1 APPEARANCES:

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3 FOR THE PLAINTIFFS:

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Also Present:

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Emily Walters, Videographer

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1                   I N D E X

2

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4                   WEDNESDAY, OCTOBER 27, 2021

5

6                   WITNESS

EXAMINATION

7

MICHAEL "MEK" KARPELES

8

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BY MR. ZEBRAK

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QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

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(NONE)

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1           A. It depends on the time frame that we're asking  
2 about. I believe there have been sources within this  
3 sidebar that haven't used affiliate links in the past.  
4 These have. The order of each of these have changed over  
5 time, but your understanding is correct, that there's a  
6 statement on the website that says, "Some of the links  
7 under this section may result in a commission to the  
8 Internet Archive." I don't see that on this version, but  
9 this might be -- it looks like this screenshot is from  
10 2020.

11          Q. And you're aware, though, that when someone  
12 clicks on a Better World Books link on a page like this  
13 or from OpenLibrary.org and then buys a book from Better  
14 World Books, that the Internet Archive receives an  
15 affiliate commission; correct?

16          A. I'm aware that at least on the screenshot that  
17 we're seeing here, all three vendors offer an affiliate  
18 program that operate comparatively.

19           Q. And that's Better World Books, Amazon and  
20 Bookshop.org. Internet Archive's relationship with each  
21 of those provides Internet Archive with an affiliate  
22 commission when from a page like this or Archive.org a  
23 user goes to that third-party site and buys the book;  
24 correct?

25           A. It can, correct.

1 Q. And when you say "it can," do you mean it --  
2 that the Archive does receive a commission when that  
3 happens?

4 A. Assuming -- assuming the patron doesn't click on  
5 the link and then click on someone else's link and make a  
6 purchase, conceivably that would make it so that someone  
7 else's affiliate link would be applied. But to the  
8 spirit of your question, I'm assuming that if a patron  
9 clicks on Amazon or Bookshop or Better World Books and  
10 then they proceed to making a purchase, that that  
11 purchase would result in some small commission to the  
12 Internet Archive.

13 Q. All right. And you have access to the revenue  
14 reports from Better World Books, Amazon and Bookshop  
15 from -- that report the affiliate commissions; right?

16 A. I -- last time I checked, I do have access, but  
17 it's so infrequently that I've checked any of them that I  
18 would have a hard time recalling very much about the  
19 specific figures.

20 Q. Right. And I'm not going to ask you from memory  
21 about the specific figures, but you're aware that  
22 Internet Archive receives commissions from Better World  
23 Books, Bookshop.org and Amazon when users click from  
24 OpenLibrary.org or Archive.org pages and then buy a book;  
25 right?

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1 STATE OF CALIFORNIA ) ss:

2 COUNTY OF MARIN )

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4 I, LESLIE ROCKWOOD ROSAS, RPR, CSR NO. 3462, do  
5 hereby certify:

6 That the foregoing deposition testimony was  
7 taken before me at the time and place therein set forth  
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all objections  
10 made by counsel at the time of the examination were  
11 recorded stenographically by me, and were thereafter  
12 transcribed under my direction and supervision, and that  
13 the foregoing pages contain a full, true and accurate  
14 record of all proceedings and testimony to the best of my  
15 skill and ability.

16 I further certify that I am neither counsel for  
17 any party to said action, nor am I related to any party  
18 to said action, nor am I in any way interested in the  
19 outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name  
21 this 2nd day of November, 2021.

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23

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25 LESLIE ROCKWOOD ROSAS, RPR, CSR NO. 3462